IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 2805 of 2006

DATED: 4.12.2006

Between:

G.Subbarayudu & ors petitioners

And

The Managing Director,
APGENCO, Vidyutsoudha, Hyderabad
And another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 2805 OF 2006

ORAL ORDER :

The present writ petition is filed questioning the proceedings of the second respondent dated 7.7.2005 and 17.3.2005 and the action of the first respondent in not disposing the appeal filed by the petitioners against the orders dated 17.3.2005. By orders dated 17.3.2005, the petitioners were informed that the posts of Cook and Assistant Cook were already filled by direct recruitment and that there is ban operating on direct recruitment in APGENCO.

The petitioners claim that they worked as contract employees in the canteen run by APSEB, Power House, during July 1996 to October, 1997 and are eligible for absorption in terms of B.P.Ms.No.36 dated 18.5.1997. Without considering the claims of the petitioners, the posts of Cook and Assistant Cook were filled up by direct notification vide memo dated 27.1.2001. Thereafter, the petitioners along with others submitted representation dated 20.9.2002 and reminders dated 22.10.2003 and 20.5.2005 to the second respondent to consider their cases in terms of B.P.Ms.No.36 dated 18.5.1997. Since, no action was taken by the second respondent, the petitioners filed W.P. No. 25217 of 2004 and the same was disposed of by order dated 30.12.2004 directing the respondents to consider the case of the petitioners in any

suitable post in accordance with the rules and regulations of the respondent corporation. In turn the second respondent issued the impugned orders dated 17.3.2005 to the effect that the posts of Cook and Assistant Cook were already filled up by direct recruitment and ban is operating on direct recruitments. As against the orders dated 17.3.2005, petitioners submitted an appeal to the first respondent-Managing Director on 21.3.2005 and the same is pending. Hence, the present writ petition.

A detailed counter affidavit is filed on behalf of the respondents stating that B.P.Ms.No.36 dated 18.5.1997 is applicable only to ex-casual labour, village electricity workers and contract labour not engaged in 33 abolished categories and the same is not applicable to the petitioners.

It is also stated that there are no vacancies of any description as on 18.5.1997 at RTPP/Muddanur since the RTPP has commenced its generation activities in the year 1994 and 1995 for unit I and II respectively with required man power. That the cases of the petitioners were examined in terms of the orders of this Court in W.P No. 12486 of 2005 and appropriate speaking orders were passed individually. It is specifically stated that B.P.Ms 36 dated 18.5.1987 was withdrawn by APTRANSCO which is main successor entity of erstwhile A.P.S.E.Board vide T.O.O.No. (Additional Secretary Per) Ms No. 179 dated 30.8.2006 and at present there is no scheme for absorption. It is stated that the certificates issued by the contractors do not bear any authenticity inasmuch as they were not counter signed by the competent authorities/officials of the respondent corporation and the same cannot be looked into. It is also stated that in terms of the orders of this Court in W.P. No. 12486 of 2005 the cases of the petitioners were examined and impugned orders were passed and no

appeal lies against the said orders. That the respondent corporation is not a principal employer for the canteen workers alleged to have been engaged through contractor and placed reliance on a judgment of the supreme court in **Haldia Refinary Canteen Employees' Union and others Vs.M/s.Indian Oil corporation Ltd**[1].

Heard the learned counsel for petitioner and learned Standing Counsel for respondent corporation and perused the material available on record.

The petitioners claim that they worked as canteen workers under a contractor and are eligible for absorption in terms of B.P.Ms.No. 36 dated 18.5.1997 and on the other hand the respondent corporation contends that the canteen employees are not covered by B.P.Ms.No. 36 dated 18.5.1997 and that the certificates issued by the contractor cannot be looked into inasmuch as they were not counter signed by the concerned officials of the respondent corporation. Whether the petitioners actually worked as canteen workers is purely a question of fact. In the earlier round of litigation this Court directed the respondents to consider the cases of the petitioners in accordance with the regulations of the corporation and accordingly their cases were considered and impugned orders were issued. Hence, again directing the respondents to consider the cases of the petitioners does not arise. At this stage learned counsel for petitioner sought permission to approach the appropriate forum to substantiate their claim and to seek the relief.

For the above reasons, the writ petition is dismissed. However, this order does not preclude the petitioners from availing the remedies available to them under law. No costs.

N.V.RAMANA,J

DATE: 4.12.2006
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[1] 2005 LLR 529